



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/173176

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 25, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Oneida County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on May 10, 2016, at Rhinelander, Wisconsin.

The issue for determination is whether the agency erred in its termination of BC+ for petitioner.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

|  
|

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]

Oneida County Department of Social Services  
Oneida Avenue  
PO Box 400  
Rhinelander, WI 54501

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner was enrolled as a single childless adult in BC+.
3. Petitioner obtained contractual employment from 1/20/16 to 5/16/16 earning \$7,435.80.

4. The Department terminated BC+ effective 4/1/16 based on income exceeding \$990 per month.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2014). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$990.00 monthly for a household of one in 2016. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,652, based on the employer information. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #16 - #19 of the federal 1040A tax return, subject to modifications listed at 42 C.F.R. § 435.603(e).

Petitioner does not dispute these figures. Instead, he makes reference to his position as an adjunct faculty member at [REDACTED] and the fact of his income being part of a teaching contract running from January 20, 2016 through May 16, 2016. He argues that counting the full amount of the income in the months received is not correct.

Petitioner is correct that there is a BC program provision on this subject. Section 16.4 of the BC+ Eligibility handbook states:

**1. Contractual Income.**

This provision applies primarily to teachers and other school employees.

When an employed BadgerCare Plus group member is paid under a contract, either written or verbal, rather than on an hourly or piecework basis, the income is prorated over the period of the contract. For example, if the contract is for 18 months, the income is prorated over 18 months no matter the number of installments made in paying the income. The income is prorated even if one of the following is true:

- a. There are predetermined vacation periods
- b. He or she will only be paid during work periods
- c. He or she will be paid only at the end of the work period, season, semester, or school year

In this case, petitioner provided a copy of his contract/Assignment Letter (see ex. #3). The letter described remuneration in the total amount of \$7,435.80 for teaching three classes from January 20, 2016 through May 16, 2016. This is a bit less than four months. Prorating the income over the period of the contract results in a monthly income around \$1,858.95 which is more than the amount budgeted by the agency. I see no error by the agency.

### **CONCLUSIONS OF LAW**

Petitioner's income from [REDACTED] caused him to exceed the \$990 per month income threshold for BC+.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

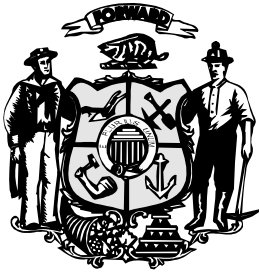
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 9th day of June, 2016

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\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 9, 2016.

Oneida County Department of Social Services  
Division of Health Care Access and Accountability